

30/11/22

Deleted from the list to come
up on 22-2-23.


Reader

22.02.2023 Bench is incomplete, therefore, case is adjourned
to 24.05.2023 for the same as before.


Reader

15.12.2021


Counsel for the appellant present. Mr. Kabirullah Khattak,
Addl: AG alongwith Mr. Jafar Ali, Assistant for respondents
present.

Written reply/comments on behalf of respondents submitted
which is placed on file. A cop of the same is also handed over to
the learned counsel for the appellant. To come up for arguments
on 29.03.2022 before D.B.


(MIAN MUHAMMAD)
MEMBER (E)


29.3.2022

Proper DB not available the case is adjourned
to come up for the same as before on 6-7-2022


Reader

6-7-2022

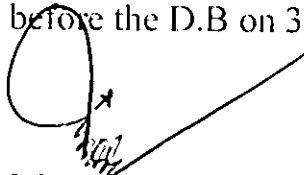
Proper DB not available the case is
Adjourned to 13-10-2022



Reader

13.10.2022

Nemo for the appellant. Mr. Kabirullah Khattak,
Additional Advocate General for the respondents present.

Previous date was changed on Reader Note, therefore,
notice for prosecution of the appeal be issued to the appellant
as well as his counsel through registered post and to come up
for arguments before the D.B on 30.11.2022.


(Mian Muhammad)
Member (E)


(Salah-ud-Din)
Member (J)

*Date Noted
Counsel for appellant
Sh. Kabirullah
8.26/10/2022.*

12.07.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

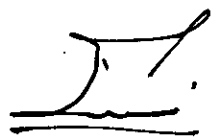

Chairman

Stipulated period passed reply not submitted.

09.07.2021

Mr. Sher Haider Khan, Advocate, for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present and sought adjournment for arguments. Adjourned. To come up for arguments before the D.B on 24.09.2021.


(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

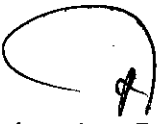

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

24.09.2021

Appellant present through counsel.

Javid Ullah learned A.A.G for respondents present.

Reply on behalf of respondents is still awaited. Learned A.A.G is directed to contact the respondents in order to submit reply/comments within 10 days in office positively. To come up for arguments on 15.12.2021 before D.B.


(Rozina Rehman)
Member (J)


Chairman

09.06.2021

Counsel for the appellant present. Preliminary arguments heard.

In view of the order passed today in Service Appeal No. 5795/2020, titled "Siraj Muhammad Vs. Government of Khyber Pakhtunkhwa through Secretary Health, Peshawar and others", this appeal is admitted to regular hearing, subject to conditions enumerated in the above mentioned Service Appeal. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 29.07.2021 before the D.B alongwith Service Appeal No 5795/2020.

Appellant Deposited
Security & Process Fee

14/6

R





Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 608 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/01/2021	<p>The appeal of Mr. Saeedullah resubmitted today by Mr. Shahid Khan Shahid Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>23/02/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	23.02.2021	<p>The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 09.06.2021.</p> <p style="text-align: right;"> Reader</p>

BEFORE THE KHYBER PAKHTUNKHUWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No: _____ /2020

Saeed Ullah

V E R S U S

**The Government of Khyber Pakhtunkhwa through
Secretary Health Department & others**

**APPLICATION FOR FIXATION OF THE INSTANT SERVICE
APPEAL WITH SAME NATURE/IDENTICAL PENDING
SERVICE APPEAL TITLED "SIRAJ MEHMOOD VS GOVT
OF KHYBER PAKHTUNKHWA THROUGH SECRETARY
HEALTH DEPARTMENT & OTHERS" FIXED FOR 23-02-
2021 FOR PRELIMINARY HEARING.**

Respectfully sheweth;

1. That the instant service appeal is pending before this Hon'ble Court and date is not fixed.
2. That some of identical cases with the same in nature and same causes are pending before this Hon'ble Service Tribunal and fixed for **23-02-2021**.
3. That instant service appeal is also on the same ground and same in nature.
4. That keeping in view of the precious time of this Hon'ble court as well as convenient to the counsels and the departments.

**Therefore it is humbly requested to
kindly fix the instant service appeal with the
identical appeals as mentioned in the head
note of the application for 23.02.202.**

31-12-2020

صحرانہ

Appellant

Through


SHER HYDER KHAN
Advocate High Court
Mobile: 0336-9377022

The appeal of Mr. Saeed Ullah Bashqir Bala Garma Chashma District Chitral received today i.e. on 31/12/2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Annexures of the appeal may be flagged.
- 3- Annexures of the appeal may be page marked.
- 4- Memorandum of appeal may be got signed by the appellant.
- 5- Copy of impugned order is not attached with the appeal which may be placed on it.
- 6- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 7- Annexures referred to in the memo of appeal are not attached with the appeal which may be placed on it.
- 8- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 08 /S.T,

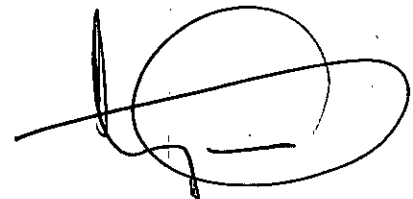
Dt. 05/01/2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Sher Haider Khan Adv. Pesh.

R/sis,

Re-submitted after removal of all objections made by this Honorable court.



06/01/2021
Sher Haider Khan
LL.B (Hon's), LL.M
ADVOCATE HIGH COURT

BEFORE THE KHYBER PAKHTUNKHUWA SERVICE

TRIBUNAL PESHAWAR

Service Appeal No: 608 /2020

Saeed Ullah

Bashqir Bala Tehsil Garamchashma District Chitral
Lower

.....Appellant

V E R S U S

The Government of Khyber Pakhtunkhwa through
secretary Health Department & others

.....Respondents

I N D E X

<u>Sr. No</u>	<u>Description of Documents</u>	<u>Annexure</u>	<u>Page No</u>
1	Memo of Appeal		1---5
2	Affidavit		6/B
3	Copy of Appointment Order Dated; 02/12/2008 along with Academic Qualification	"A"	7---10
4	Copy of the Policy Regarding Muslim Sweepers Dated; 25-07-2006	"B"	11---15
5	Copy of Appointment Orders of fresh Appointments	"C"	16---18
6	Copy of the Judgment High Court Dated; 24-01-2017	"D"	19---28
7	Copy of the Notification Regarding Muslim Sweepers Dated; 16-02-2017	"E"	29
8	Copy of Service Tribunal Judgments Dated 01-06-2017 & 11-07-2019	"F & G"	30---42
9	Copy of the Departmental Appeal Dated;	"H"	43---44
10	Wakalat Nama		45

31-12-2020

Appellant

Through

SHER HYDER KHAN
Advocate High Court
Mobile: 0336-9377022

BEFORE THE KHYBER PAKHTUNKHUWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No: _____ /2020 Khyber Pakhtunkhwa Service Tribunal

Saeed Ullah
Bashqir Bala Tehsil Garamchashma District Chitral Lower
.....Appellant

Diary No. 16975
Dated 31/12/2020

V E R S U S

1. The Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar
2. The Director General Health Department, Khyber Pakhtunkhwa, Peshawar
3. The District Health Officer, District Chitral (L).

.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1947 AGAINST THE IMPUGNED NOTIFICATION DATED 16/02/2017 WHEREBY THE APPELLANT HAS BEEN IGNORED/EXCLUDED FROM PROMOTION/ADJUSTMENT AGAINST ANY OTHER CLASS-IV POST.

Filed to-day
[Signature]
Registrar
31/12/2020

PRAYER;

ON ACCEPTANCE OF THIS APPEAL THE IMPUGNED NOTIFICATION DATED 16/02/2017 MAY KINDLY BE MODIFY TO THE EXTENT THAT THE APPELLANT MAY BE CONSIDERED FOR PROMOTION/ADJUSTMENT AGAINST ANY OTHER CLASS-IV POST IN LIGHT OF THE

POLICY DATED 25/07/2006 FROM THE DATE WHEN HIS OTHER COLLEAGUES WERE PROMOTED/ADJUSTED.

Any other remedy which this Hon'ble Tribunal deems appropriate that may also be awarded in favour of the appellant.

RESPECTFULLY SHEWETH:

That brief facts and grounds giving rise to the instant Service Appeal are as under;

1. That appellant is the employee of the respondent department and is serving as Sweeper (Muslim) at THQ Hospital Garamchshma Chitral (L) for quite considerable time e.g 12 years efficiently and upto the entire satisfaction of these superiors.

Copy of the appointment order is attached as annexure "A"

2. That vide notification dated 25/07/2006 the respondent department including autonomous institutions have unanimously decided that all the health institutions should promote the Muslim Sweepers against the existing vacancies of Lab Attendant, Ward Orderly, Chowkidar, Mali, Dayi, Aya and other Class-IV posts on seniority basis and not to appoint Muslim Sweepers against the post of sweeper in future.

Copy of the Policy is attached as annexure "B"

3. That appellant in light of the above mentioned Notification dated 25.7.2006 applied for his adjustment/promotion against the Class-IV post

other than Sweeper but the respondent department instead of the appellant adjustment/promotion against the Class-IV post made fresh appointment and the appellant had been deprived from his fundamental right.

Copy of fresh Appointment Orders is annexure "C"

4. That other colleagues of the appellant were filed writ petition No.181- M/2013 before the Honorable Peshawar High Court Mingora Bench and the Honorable High Court converted the said writ petition into representation with the direction to Secretary Health Department to decide the said Departmental appeal/representation in light of the above mentioned Policy.

Copy of the Judgment is attached as annexure "D"

5. That in response to the above mentioned Judgment the respondent Department issued the impugned Notification dated 16.2.2017; where in the Secretary Health i.e. respondent No.1 issued direction to the concerned authorities to promote/adjust those Muslim Sweepers who were appointed before the issuance of the policy dated 25.07.2006.

Copy of Notification Dated 16-02-2017 is annexure "E"

6. That feeling aggrieved from the impugned Notification Dated; 16.2.2017 the said colleagues of the appellant filed connected Service Appeals before this august Tribunal in

title "*Lutf-e-Hakim & others Vs Secretary Health & others*" and "*Inayat Ullah Vs Secretary Health & others*" the same have been allowed this august Tribunal vide judgment dated 13.12.2018 & 11.07.2019 respectively.

Copies of Service Tribunal Judgments are attached as annexure "F" & "G"

7. That appellant filed Departmental appeal before the appellate authority for same relief granted to other colleagues of the appellant but no reply has been received so far. That appellant feeling aggrieved from the inaction of the respondents by not considering the appellant for adjustment against the other Class-IV posts preferred the present appeal on the following grounds amongst the others.

Copy of the Departmental Appeal is attached annexure "H"

GROUND:

- A. That the impugned Notification dated 16.02.2017 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be modified.
- B. That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic republic of Pakistan 1973.
- C. That appellant has been discriminated by the respondents on the subject noted above and as

such the respondents violated the Rules regulations of the Provincial Government.

- D. That the notification dated 16.2.2017 of the respondent department is based on favoritism and nepotism, therefore not tenable and liable to be modified.
- E. That the impugned notification is violate of Article 38 of the constitution of Pakistan 1973.
- F. That the respondent acted in arbitrary and malafide manner by ignoring the appellant from promotion/judgment on any Class-IV post in light of the policy dated 25.7.2006.
- G. That the appellant is also entitled for the same relief under the principle of consistency which was granted to other colleagues of the appellant.
- H. That the impugned notification dated 16/02/2017 has been issued by the respondents is utter disregard of law and rules.
- I. That any other grounds will be furnished at the time of final arguments with the prior permission of this honorable tribunal.

Therefore, it is, most humbly prayed that the instant service appeal may kindly be accepted as prayed for.

Sher Khan
Appellant

Through

SHER HYDER KHAN
Advocate High Court

6/11

**BEFORE THE KHYBER PAKHTUNKHUWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No: _____ /2020

Saeed Ullah
Bashqir Bala Tehsil Garamchashma District Chitral
Lower
.....Appellant

V E R S U S

The Government of Khyber Pakhtunkhwa through
secretary Health Department, & others
.....Respondents

AFFIDAVIT

I, **Saeed Ullah S/o Baituli Khan** Residence of
Bashqir Bala Tehsil Garamchashma District Chitral
Lower; do hereby solemnly verify and declare on
oath that all the contents of the subject appeal are
true and correct to the best of my knowledge and
belief and nothing has been concealed from this
Honourable Court.

Saeed Ullah

DEPONENT

6/A

BEFORE THE KHYBER PAKHTUNKHUWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No: _____ /2020

ADDRESSES OF PARTIES

APPELLANT

Saeed Ullah

Bashqir Bala Tehsil Garamchashma District Chitral
(Lower) Khyber Pakhtunkhwa

RESPONDENTS

1. The Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar
2. The Director General Health Department, Old FATA, Secretariat Warsak Road Peshawar, Khyber Pakhtunkhwa, Peshawar
3. The District Health Officer, District Chitral (Lower)

31-12-2020

سید علی

Appellant

Through

SHER HYDER KHAN
Advocate High Court
Mobile: 0336-9377022

7

Annexure "A"

OFFICE OF THE EXECUTIVE DISTRICT OFFICER HEALTH CHITRAL.
OFFICE ORDER

Due to death of Baitoli Khan Sweeper THQ Hospital Garamchashma on 30.11.2008 during service, his son Mr. Saidullah Khan is hereby appointed as Sweeper in BPS-01 (Rs. 2970-90-5670) plus usual allowance as admissible under rules, at THQ Hospital Garamchashma. His appointment in the Health Department, Chitral will be subject to following terms and conditions: -

CONDITIONS:-

1. He will be on probation period initially for a period of two years extendable for a further period not exceeding one year.
2. His services can be dispensed with during the probation period, if his work and conduct found unsatisfactory.
3. His appointment will be subject to medical fitness and verification of character and antecedents etc.
4. He will not be entitled to any TADA for medical examination and joining the first appointment.
5. He will be governed by such rules and the government may issue orders as for the category servant to which he belong.
6. He shall for all intents and purpose is civil servant, except for the purpose of pension, in lieu of the same he will be entitle to receive contributory provided fund. For the said fund 10% contribution will be made by the provincial Govt, and 10% by the civil servant concerned in the prescribed manner. Provided further that in the event of death of the civil servant whether before or after retirement, their family shall be entitled to receive the said amount if it has already not been received by concerned deceased Civil Servant.
7. He is liable to serve any where in the NWFP/FATA.
8. He will submit an under taking on judicial stamp paper to the EDO Health Chitral that he has not been dismissed from service by any Govt. or semi. Govt. organization.
9. If he wish to resign from service after completion of bond period they shall resign in writing by giving prior notice of one month OR deposit one month pay in lieu of one month advance notice, in the Government treasury. However he will continue to serve the Govt. till their resignation is accepted by the competent authority.

If the above terms and conditions are acceptable to him. He should report to the Medical Officer THQ Hospital Garamchashma District Chitral for duty within (14) days of the receipt of this order.

Arrival reports should be submitted to this office.

Sd/-xx XX xx
(DR; SIYER QAYUM KHAN)
EXECUTIVE DISTRICT OFFICER
HEALTH CHITRAL.

No 1892-95/IC-11.

dated Chitral the 02/12/2008

Copy forwarded to the: -

1. Medical Officer In charge THQ Hospital Garamchashma.
2. District Accounts Officer Chitral.
3. Accounts Section of local office.
4. Saidullah Khan S/O Late Baitoli Khan village Bashqar Bala Garamchashma.

For information and necessary action.

M. Secy & Netral Khan file of

M. Secy & Netral Khan

Siyer Qayum Khan
EXECUTIVE DISTRICT OFFICER
HEALTH CHITRAL.

8

Personal Information of Mr SAEED DULLAH d/w/s of BATTULI KHAN

Personnel Number: 0044355 CNIC: 1520133627981 NTN:
Date of Birth: 10.09.1990 Entry into Govt. Service: 05.12.2008 Length of Service: 10 Years 10 Months 028 Days

Employment Category: Active Temporary

Designation: SWEEPER S/514080-DISTRICT GOVERNMENT KHYBE

DDO Code: CL6189-THQ Hospital Chitral THQ Hospital Chitral

Payroll Section: 001 GPF Section: 005 Cash Center:
GPF A.C No: 444355 Interest Applied: Yes GPF Balance: 65,810.00

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 03 Pay Stage: 9

Wage type		Amount	Wage type		Amount
0001	Basic Pay	13,120.00	1000	House Rent Allowance	1,413.00
1210	Convey Allowance 2005	1,785.00	1300	Medical Allowance	1,500.00
1516	Dress/ Uniform Allowance	150.00	1567	Washing Allowance	150.00
1917	UAA-CHITRAL 40%(1-15)	1,700.00	2148	15% Adhoc Relief All-2013	292.00
2199	Adhoc Relief Allow @ 10%	209.00	2211	Adhoc Relief All 2016 10%	1,064.00
2224	Adhoc Relief All 2017 10%	1,312.00	2247	Adhoc Relief All 2018 10%	1,312.00
2264	Adhoc Relief All 2019 10%	1,312.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3003	GPF Subscription	-770.00	3501	Benevolent Fund	-300.00
4004	R. Benefits &-Death Comy	-451.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	47,000.00	-1,500.00	20,000.00

Deductions - Income Tax

Payable: 0.00 Recovered till OCT-2019: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 25,319.00 Deductions: (Rs.): -3,021.00 Net Pay: (Rs.): 22,298.00

Payee Name: SAEED DULLAH

Account Number: 14987100009201

Bank Details: HABIB BANK LIMITED, 221498 GARAM CHASHIMA GARAM CHASHIMA,

Leaves: Opening Balance: , Availed: , Earned: , Balance:

Permanent Address: VILL:BASHQER BALAL P GARAM CHASHIMA TEH; AND DISTT: CL

City: EDO HEALTH CHITRAL

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: saeedbeshqer@gmail.com

Q

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

S No. 39343

Roll No. 157282

Board of Intermediate & Secondary Education Peshawar



Khyber Pakhtunkhwa (Pakistan) Secondary School Certificate Examination

SESSION 2010- ANNUAL
(Arts Group)

This is to Certify that Saeed Ullah Son of Baituli Khan
and a resident of Chitral District has passed the Secondary School Certificate
Examination of the Board of Intermediate and Secondary Education, Peshawar held in March, 2010 as a Private
candidate. He obtained 494 Marks out of 1050 and has been placed in Grade D Representing Fair

The Candidate passed in the following subjects:

- | | | | |
|--------------------|------------------------|---------------------|---------------------|
| 1. English | 2. Urdu | 3. Islamiyat (Comp) | 4. Pakistan Studies |
| 5. General Science | 6. Art & Model Drawing | 7. Maths | 8. Islamic Studies |

Date of birth according to admission form 08 January, 1990


Sindhu
Asstt Secretary

K/S
Secretary

This Certificate is issued without alteration or erasure.

10

S.No. PB 1941266



PESHAWAR

PROVISIONAL AND DETAILED MARKS CERTIFICATE
SECONDARY SCHOOL CERTIFICATE EXAMINATION
SESSION ANNUAL-2010

Roll No 157282
Group ARTS

Saeed Ullah

Son/Daughter of Baituli Khan

of CHITRAL DISTRICT

has secured the marks shown against each subject, in the Secondary School Certificate Examination held in the month of March 2010 as Private Student

Subjects	Marks	MARKS OBTAINED					In Words
		9 th		10 th		Total	
		Theory Paper A	Practical Paper B	Theory Paper A	Practical Paper B		
1. English	150	25	--	30	--	55	Fifty-Five
2. Urdu	150	40	--	32	--	72	Seventy-Two
3. Islamiyat (Comp)	75	34	--	--	--	34	Thirty-Four
4. Pakistan Studies	75	--	--	34	--	34	Thirty-Four
5. Maths	150	34	--	38	--	72	Seventy-Two
6. General Science	150	30	--	39	--	69	Sixty-Nine
7. Islamic Studies	150	35	--	25	--	60	Sixty
8. Art & Model Drawing	150	27	24	22	25	98	Ninety-Eight

Total 1050

494-D Four Hundred Ninety-Four Only

Remarks

IS:ART:

Date of Birth: 6th January, 1990

Checked by:

Date: 18-03-2010

Controller of Examinations

ANNEXURE - "B"

GOVERNMENT OF NWFP
HEALTH DEPARTMENT

No: SOH-III/1-179/06 (Class-IV)
Dated 25th July, 2006

To

- 1) The Director General Health Services, NWFP, Peshawar.
- 2) The Chief Executives, LRH/KTH/HMC, Peshawar and ATH, Abbottabad.
- 3) Dr. Muhammad Rahim Jan Afridi, Director Admn. Directorate General Health Services, NWFP, Peshawar.
- 4) Dr. Abdus Sabooh Bacha, Medical Supdt., Hayatabad Medical Complex, Peshawar.
- 5) Dr. Iftikhar Ahmad, Deputy Medical Supdt., Ayub Teaching Hospital, Abbottabad.
- 6) Dr. Farman Ali, RMO, Khyber Teaching Hospital, Peshawar.
- 7) Mr. Javed Khan, President, Provl. Paramedical Association, Class-IV Employees, NWFP, Peshawar.

Subject: MINUTES OF MEETING REGARDING PROBLEMS OF CLASS-IV PARAMEDICS EMPLOYEES.

I am directed to refer to the subject and to enclose herewith a copy of minutes of subject meeting held on 12.07.2006, at 10:00 hours, under the chairmanship of Secretary Health, duly signed by all the participants, for further necessary action please.

for

Shahidullah
Section Officer-II

Encls. No. & Date Even.

Copy to PS to Secretary Health.

for

S
Section Officer-III

ATTENDED

APL
Bh

ATTENDED

S

Subject: MINUTES OF MEETING REGARDING PROBLEMS OF CLASS-IV PARAMEDICS EMPLOYEES.

A meeting on the subject was held under the chairmanship of Secretary Health Department in Committee Room of Health Deptt on 12/07/2006 at 10:00 AM.

- 2- The following attended the meeting
 - 1) Mr. Abdus Samad Khan, Secretary to Govt. of NWFP, Health Deptt.
 - 2) Prof. Abdus Samad Khan, Chief Executive, Govt. Lady Reading Hospital, Peshawar.
 - 3) Dr. Muhammad Rahim Jan Afridi, Director Admni., Directorate General Health Services, NWFP, Peshawar.
 - 4) Dr. Abdus Saboon Bacha, Medical Supdt., Hayatabad Medical Complex, Peshawar.
 - 5) Dr. Iftikhar Ahmad, Deputy Medical Supdt., Ayub Teaching Hospital, Abbottabad.
 - 6) Dr. Farman Ali, RMO, Khyber Teaching Hospital, Peshawar.
 - 7) Mr. Javed Khan, President, Provl. Paramedical Association Class-IV Employees, NWFP, Peshawar.
 - 8) Mr. Naseer Khan, General Secretary, Provl. Paramedical Association Class-IV Employees, NWFP, Peshawar.
 - 9) Mr. Hakim Jan, General Secretary, Provl. Paramedical Association Class-IV Employees, Hayatabad Medical Complex, Peshawar.

3- The meeting started with recitation of the Holy Quran.

4- The Chair welcomed the participants.

5- The demands presented by the Provl. Paramedical Association Class-IV Employees, were discussed in detail and the following decision were taken

- i) The Association demanded that service structure for Class-IV paramedical employees, may also be framed.

Decision

It was decided that the Director General Health Services NWFP will come up with a self-contain case with full justification. The demand will be recommended and will be forwarded to Finance Department.

- ii) The Association demanded that Contract Policy may be implemented in Teaching and all other Health Institution of the Province.

Decision

It was decided that the Director General Health Services, and all the Chief Executives of Health Institutions may be directed to implement the Contract Policy of the provincial Government and all other relevant instructions in letter and spirit.

ARC 12/7/06

[Handwritten Signature]

APPROVED
12/7/06

[Handwritten Mark]

iii) The Association demanded that children of retired Class-IV paramedical employees may be given preference when appointments are made against the vacant posts in Health Institutions.

Decision

It was decided that instructions circulated by the Health Department vide letter No. SOHIII/7-350/95-1 dated 01.11.1997, may be followed strictly. The Medical Supdt., Khyber Teaching Hospital, should submit a report within fortnight in this regard.

iv) The Association demanded advance increments on the basis of higher qualifications, for Class-IV paramedical employees.

Decision

It was decided that instructions of Finance Department, in this regard will be implemented strictly, in all Health Institutions.

v) The Association demanded relaxation of science subjects for admission in different health technology courses, for Class-IV paramedical employees.

Decision

It was decided that if any Class-IV paramedical employee has completed the required qualification for admission in different health technology courses, according to the prescribed criteria, may be allowed to participate in the examination of different health technologies, conducted by NWFP, Medical Faculty, after completion of all usual formalities.

vi) The Association demanded that all Class-IV employees may be promoted to Class-III posts, existing in different Health Institutions.

Decision

It was decided that Class-IV employees may be given preference while filling the posts of promotion quota as per rules.

vii) The Association demanded for 33% Selection Grade for Class-IV paramedical employees.

Decision

It was decided that the demand of 33% Selection Grade will be included in revised service structure of Class-IV paramedical employees.

viii) The Association demanded Dress/Washing Allowance for all Class-IV paramedical employees.

Handwritten notes:
15/11/97

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G. M. Khan

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Decision

It was decided that the Director General Health Services, and all Chief Executive, should submit a self contained case with total strength of Class-IV paramedical employees and propose Dress/Washing Allowance for Class-IV paramedical employees required to be considered, with full justification.

ix) The Association demanded that the Muslim Sweeper in each Health Institution may be promoted to the post of Ward Orderly, Chowkidar, Mah Dai, Aya and other Class-IV posts, on seniority basis. In future, only sweeper may be appointed against the posts of sweeper.

Handwritten notes:
Sweeper
Promotion of muslim sweeper

Decision

It was decided that all the Health Institutions should promote the Muslim Sweeper against the existing vacancy of Ward Orderly, Chowkidar, Mah Dai, Aya and other Class-IV posts, on seniority basis, and not appoint Muslim Sweeper against the post of Sweeper in future.

x) The Association demanded that 8 hours duty may be taken from Class-IV paramedical employees as per rules and they may be granted leave according to rules.

Handwritten note: seniority basis

Decision

It was decided that instructions of Government regarding duty hours should be implemented in letter and spirit and requests of Class-IV employees for grant of leave should also be considered on merit and according to rules. However, Heads of all the Health Institutions are advised to keep a vigilant eye on the performance of Class-IV paramedical employees.

6- The meeting ended with a vote of thanks by the Chair.

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(PROF. ABDUS SAMAD KHAN)
Chief Executive,
Govt. Lady Reading Hospital,
Peshawar

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(DR. MUHAMMAD RAHIM JAN AFRIDI)
Director Admn.,
Directorate General Health Services,
NWFP, Peshawar

Handwritten signature
(DR. ABDUS SABOOR BACHA)
Medical Superintendent,
Hayatabad Medical Complex,
Peshawar

Handwritten signature
(DR. IFTIKHAR AHMAD)
Deputy Medical Superd.
Ayub Teaching Hospital,
Abbottabad

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ATTACHED
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Annexure "C"

OFFICE OF THE EXECUTIVE DISTRICT OFFICER HEALTH CHITRAL.

OFFICE ORDER

As recommended by the Departmental Selection Committee, Mr. Ayaz Ahmad S/O Amanullah Khan R/O Garamchashma District Chitral (L) is hereby appointed as Lab: Attendant in (BPS-04) Rs. (9900-440-23100) plus usual allowances as admissible under the rules against the vacant post at THQ Hospital Garamchashma Chitral Lower. His appointment in the Health Department Chitral will be subject to the following terms and conditions:-

CONDITIONS:-

1. He will be on probation period initially for a period of one year extendable for a further period not exceeding one year.
2. His service can be terminated at any time in case the performance is found unsatisfactory during probation period.
3. His services can be dispensed with during the probation period, if his work and conduct found unsatisfactory.
4. His appointment will be subject to medical fitness and verification of character and antecedents etc.
5. He should join his post within 14 days of the issuance of this order positively otherwise the appointment cancels automatically.
6. The DHO concerned should personally check his original documents before handing over charge.
7. He will not be entitled to any TA/DA for medical examination and joining the first appointment.
8. He will be governed by such rules and the government may issue orders as for the category of Govt: servant to which he belongs.
9. He is liable to serve anywhere in the KPK/FATA.
10. He will submit an under taking on judicial stamp paper to the DHO Chitral that he has not been dismissed from service by any Govt: or semi Govt: organization.
11. If he wish to resign from service he will resign in writing by giving prior notice of one month OR deposit one month pay in lieu of one month advance notice, in the Government treasury. However he will continue to serve the Govt: till his resignation is accepted by the competent authority.

If the above terms and conditions are acceptable to him, he should report to the In-charges of their Institutions, for duty within (14) days of the receipt of this order, otherwise this offer will be cancelled.

Arrival reports should be submitted to this office.

Sd/-

DISTRICT HEALTH OFFICER
CHITRAL.

No 8394-98 IC-11,

dated Chitral the 12 /12/2019

Copy forwarded to the: -

1. Director General Health Services KPK, Peshawar.
2. PS to Secretary Health Department KP, Peshawar.
3. District Accounts Officer Chitral.
4. I/C THQ Hospital Garamchashma.
5. Official Concerned.
6. I/C Account Section.

For information and necessary action.

DISTRICT HEALTH OFFICER
CHITRAL

17

**DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR**

E-Mail Address: dg@khyberpakhtunkhwa.gov.pk Office Ph# 091-9210269 Fax# 091-9210187, 9210196 Int # 091-9210230
No. 3722-24 /Personnel/DHO Chitral Dated: 03 /07/2020

To,

- 1. The District Health Officer
Chitral Lower.
- 2. The District Health Officer
Chitral Upper.

Subject: **APPLICATION FOR RELEASE OF PAY/ ENQUIRY REPORT**

Memo:

Reference to your letter No. 3581/C-5 dated 21.5.2020 on the subject noted above.

In this context it is stated that the newly recruited Class-IV under your control was enquired through Enquiry Committee about its transparency. The Enquiry Committee submitted their report with certain recommendations (copy attached) with the direction to implement the recommendation of the Enquiry Committee in letter and spirit under intimation to this Directorate.

[Signature]
DIRECTOR GENERAL HEALTH SERVICES, K.P PESHAWAR.

No. 3724 /Personnel

Copy forwarded to the Secretary to Government of Khyber Pakhtunkhwa Health Department Peshawar alongwith enquiry report, with the request to take action on recommendation No. 2 & 3 of the enquiry report.

[Signature]
DIRECTOR GENERAL HEALTH SERVICES, K.P PESHAWAR.



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The Director General Health Services
Khyber Pakhtunkhwa Peshawar

INQUIRY REPORT

Subject: -

With reference to your office letter NO. 1432-40/Personnel, Dated: 27/12/2019.

We the Inquiry Officers, Dr. Shaker Ali & Dr. Iqbal Ullah Khan, conducted the inquiry into the matter and the following findings/recommendations are hereby submitted.

14 No. of Civil Dispensaries were constructed in District Chitral during the year 1992-93 under the People's Work Program Khyber Pakhtunkhwa and SNRs were approved by the department on 16/02/2016 for these health facilities vide the Finance Department Notification No. BOVIA-10/2003-04/VOL-1 Dated Peshawar the 16-02-2016.

2. The interview for appointment of 80 Class IV vacancies was conducted on 12/12/2019. The DHO presented a letter wherein he has requested the Secretary Health, Deputy Commissioner and Medical Superintendent DHO Hospital Chitral to nominate their representatives for interview process. The DHO Chitral vide his office letter No. 83-84 CG Dated 03-01-2020 has communicated that the interview was conducted by the active participation of all the Selection Committee Members whereas the Merit List is signed only by 02 Members.

3. While inquiring the matter, the officer under inquiry, was asked to present the documentary proofs depicting transparency regarding recruitment process, as claimed by him in point No. 1 of his inquiry statement vide office letter No. 83-84/CG dated 03-01-2020. Unfortunately, the Officer concerned could not produce any such documentary proofs in his defense.

4. The selection process has been kept very vague with concealment of many important information.

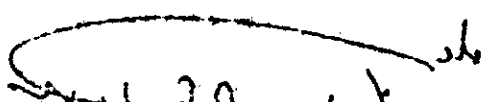
5. Copies of the rules were presented to the Inquiry Committee but no evidence of adherence to the same was noted.

Recommendations:

1. The recruitment process seems to be lacking of any merit and transparency as claimed by the officer under inquiry, therefore, the recruitment orders of the selected candidates may be cancelled and void ab-initio.

2. The officer concerned may not be considered for any managerial position in future and he may be close back to his previous position.

3. A proper legislation for the recruitment of Class-IV may be carried out.


Dr. Iqbal Ullah Khan
Management Cadre BS-23




Dr. Shaker Ali
Management Cadre BS-19

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Signature

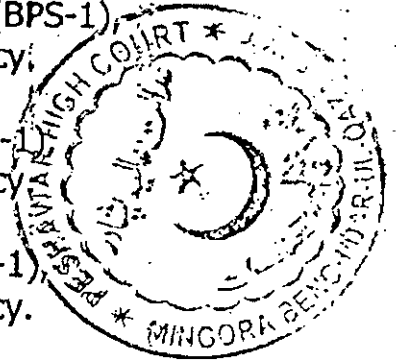
19

Annexure "D"

BEFORE THE PESHAWAR HIGH COURT CIRCUIT BENCH AT
SWAT

WRIT PETITION NO. 181-M /2013

- 1- Mr. Aminullah, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 2- Mr. Mohammad Khan, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 3- Mr. Shah Nawaz Khan, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 4- Mr. Fazal Rehman, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 5- Mr. Saleem Akbar, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 6- Mr. Izzat Ullah, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 7- Mr. Toor Khan, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 8- Mr. Khalil-Ur-Rehman, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 9- Mr. Wilayat Zada, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 10- Mr. Mashooq, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 11- Mr. Bodal, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 12- Mr. Zarawar Khan, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 13- Mr. Sabz Ali Khan, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 14- Mr. Hayat Khan, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 15- Mr. Bakht Bacha, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 16- Mr. Mohammad Habib, Sweeper (Muslim) (BPS-1),



ATTESTED

Examiner

Peshawar High Court Bench
Mingora/Dar-ul-Qaza, Swat.

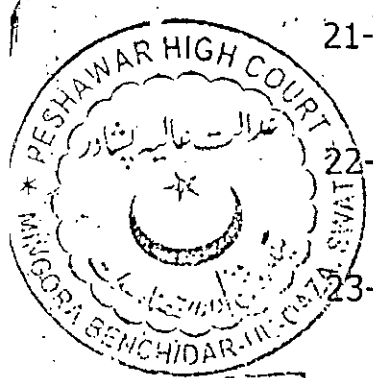
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Additional Registrar

09 APR 2013

- 17- Agency Headquarter Hospita, Bajaur Agency.
Mr. Sher Wali Khan, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 18- Mr. Umar Hakim, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 19- Mr. Gohar Rehman, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 20- Mr. Rehmat Ali Shah, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 21- Mr. Habib Ullah, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 22- Mr. Miraj-Ud-Din, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 23- Mr. Ismail Khan, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 24- Mr. Mohammad Sultan, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 25- Mr. Shahid Hussain, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 26- Mr. Hazrat Yousaf, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 27- Mr. Buzarg Rehman, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 28- Mr. Fazal Rehman, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.
- 29- Mr. Nowsher Khan, Sweeper (Muslim) (BPS-1),
Agency Headquarter Hospita, Bajaur Agency.

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ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

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09 APR 2013

..... **PETITIONERS**
 CNIC-21103-2294617-7 Mobile No.0313-8700097

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat,
Warsak Road Peshawar.
- 2- The Director General Health Services FATA, FATA
Secretariat, Warsak Road, Peshawar.
- 3- The Agency Surgeon, Bajaur Agency.
- 4- The Political Agent Bajaur, Bajaur Agency.
- 5- The Medical Superintendent, Agency Headquarter Hospital,

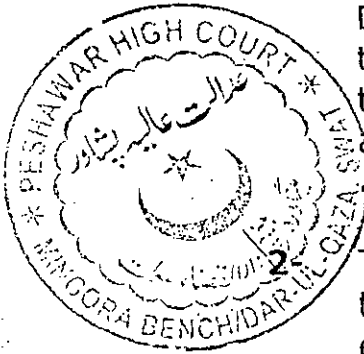
Khar, Bajaur Agency.

..... **RESPONDENTS**

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 AS AMENDED UP TO DATE

R.SHEWETH:

1- That petitioners are the bonafide resident of Bajaur Agency and were appointed as Sweeper (BPS-01) in the respondent Department vide order dated 20-8-2003, after following all the codal formalities and after proper recommendation of the Departmental Selection Committee. Copies of the CNIC's and appointment orders are attached as annexure **A and B.**



That since from appointment till date petitioners have served the respondent Department quite efficiently and up to the entire satisfaction of their superiors. That it is very pertinent to mention that petitioners have higher qualification and are eligible for promotion to higher post. That recently 28 posts of ward Orderly have become vacant under the control of appointing authority i.e. respondent No.3 and 5. Copy of the Notification is attached as annexure **C.**

3- That petitioners time and again requested the concerned authorities for thier adjustment/promotion to the post of Ward orderly as having 28 posts are vacant as mentioned in the above notification dated 16.1.2013 but the concerned authorities regretted the request of petitioners on the pretext that there is no vacant post of Ward orderly on which the petitioners have to be adjusted.

4- That it is also very pertinent to mention that recently the Health Department conducted meeting regarding problems of class-iv paramedics employees in which it was decided that the Muslim sweeper in each Health institution may be promoted to the post ward Orderly, chowkidar, mali, Dai, aya and other class-iv posts on seniority basis. So in the light of the above recommendation petitioners are entitled to be promoted to the post of Ward Orderly or other class-iv posts. Copy of the Minutes of the meeting is attached as annexure **D.**

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Additional Registrar

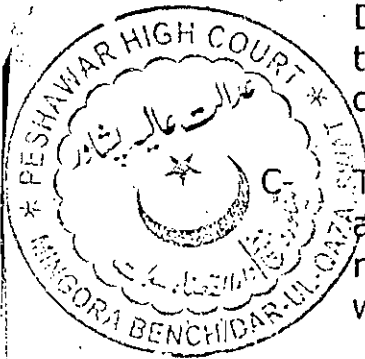
09 APR 2013

5- That feeling aggrieved petitioners filed Departmental appeal before the respondent No.2 for promotion to the post of ward Orderly (BPS-2) but no reply has been received so far.

Hence the present writ petition on the following grounds amongst other. Copy of the Departmental appeal is attached as annexure E.

GROUND:

- A- That not allowing/granting adjustment/promotion to the post of ward orderly (BPS-02) to the petitioners inspite of eligibility and fitness is against the law, facts and norms of natural justice.
- B- That petitioners have not been treated by the respondent Department in accordance with law and rules and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That despite of vacant twenty eight posts of ward orderly and eligibility/fitness of petitioners, the respondents are still not willing to adjust/promote the petitioners on the posts of ward orderly (BPS-02).
- D- That recently this august Court has also promoted muslim Sweepers to the post of Class-iv vide judgment dated
- E- That the respondents acted in arbitrary and malafide manner by not adjusting/promoting the petitioners to the posts of ward Orderly (BPS-02).
- F- That petitioners seeks permission to advance others grounds and proofs at the time of hearing.



ATTESTED

Examiner E-
Peshawar High Court Bench
Mingora/Dar-ul-Qaza, Swat.

It is therefore, most humbly prayed that on acceptance of this writ petition the inaction of the respondents by not adjusting/promoting the petitioners on the posts of Ward Orderly (BPS-02) may very kindly be declared as illegal, unconstitutional and ineffective upon the rights of the petitioners. That the respondents may further pleas be directed to promote/adjust the petitioners on the post of Ward Orderly (BPS-02) with all consequential benefits. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioners.

INTERIM RELIEF:

That the respondents may be very kindly be directed that not to fill up the posts of ward Orderly (BPS-02) till the disposal of this writ Petition.

FILED TODAY

Additional Registrar

P. O. Mingora

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PETITIONERS

Amin

AMINULLAH AND 28 OTHERS

THROUGH:

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NOOR MOHAMMAD KHATTAK

ADVOCATE

(0345-9383141)

VERIFICATION:

It is verified that no earlier writ petition between the same parties has been filed.

12

DEPONENT



LIST OF BOOKS:

- 1- The Constitution of Pakistan 1973.
- 2- The manual of Services laws
- 3- Any other case law as per need.

ATTESTED

[Signature]
Examiner

Peshawar High Court Bench
Mingora/Dar-ul-Qaza, Swat.

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[Signature]

Additional Registrar

09 APR 2013

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JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)

W.P. No. 181-M/2013

JUDGMENT

Date of hearing: 24.01.2017

Petitioners: (Aminullah and others) by
Mr. Noor Muhammad Khattak, Advocate.

Respondents: (Additional Chief Secretary FATA etc) by
Mr. Sabir Shah, A.A.G.

MUSARRAT HILALI, J.- Through this single judgment, we intend to dispose of the instant writ petition as well as the connected W.P No. 510-M/2014, W.P No. 450-M/2015 and W.P No. 551-M/2015 as all the matters involve common questions of law and facts.

2. Grievance of the present writ petitioners is that they were appointed as Sweepers (BPS-1) in Health Department, Bajaur Agency vide order dated 20.08.2003 and since then they are looking for their promotion to higher posts of Class-IV despite they moved a departmental appeal to the high ups in this regard. They have prayed this Court that, being eligible and qualified, they be promoted to the 28 posts of Ward Orderly (BPS-2) recently advertised by the Health Department on seniority basis.

25

Petitioners in W.P No. 510-M/2014 were also appointed as Sweepers in DHQ Hospital Timergara, Dir Lower in 2009 and now they are seeking their promotion to the 12 posts of Ward Orderly/Attendants (BPS-2) recently created by the Health Department vide notification bearing No. BVI/ED/4/38/2010-11/VOL-III dated 10.04.2014.

Similarly, petitioners in W.P No. 450-M/2015 have asserted that they were appointed as Muslim Sweepers in Saidu Teaching Hospital, Saidu Sharif Swat but despite clear cut policy of the Government of Khyber Pakhtunkhwa Health Department notified vide No.SOH-III/1-179/06 dated 25.07.2006, they are not given a chance of promotion to 54 vacant posts of Ward Orderly, Chowkidar, Mali, Dai, Aya etc. Petitioners have prayed for their promotion to the mentioned vacant posts on the basis of their seniority as per Government policy.

main

Petitioners Muhammad Haq and 11 others in their petition bearing W.P No. 551-M/2015 have averred that they were appointed as Muslim Sweepers in DHQ Hospital Timergara, Dir Lower and according to Government Policy of Health Department, all the Muslim Sweepers in Health

26

Department shall be promoted to the vacant posts of Ward Orderly, Chowkidar, Mali and other Class-IV employees on seniority basis and no Muslim shall be appointed against the post of sweeper in future. Petitioners have further asserted that the Health Department, in derogation of the policy, advertised 28 posts of Class-IV and while ignoring the petitioners, respondents No. 7 to 14 were appointed which is illegal. Petitioners have prayed for their promotion on seniority basis in accordance with law and policy of the Provincial Government.

3. Learned counsel for the petitioners hotly argued the case and, inter alia, submitted that there is a proper policy of the Provincial Government regarding promotion of the existing Muslim Sweepers which needs to be acted upon by the Health Department in letter and spirit.

4. Learned A.A.G. and learned counsel appearing for private respondents, contended that actually there is no policy regarding promotion of Muslim Sweepers in the field and the one referred to by the petitioners is in fact minutes of a meeting. Further contended that petitioners are civil servants and their claim for promotion falls within the terms

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and conditions of their service, therefore, these writ petitions are not maintainable before this Court.

5. Arguments heard and record perused.

6. In essence, case of the petitioners is that of promotion from their existing posts (sweepers) to other higher posts on the strength of a Government policy per their stance. Since, promotion is one of the terms and conditions of civil service and jurisdiction of this Court is clearly barred under Article 212 of the Constitution in the like matters, however, keeping in view the peculiar circumstances of the present cases and judgment dated 13.10.2011 rendered by this Court in an identical W.P No. 102/2011, this Court deems it proper to convert all these petitions into representations and send the same to the competent authority for consideration.

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7. In view of the above, the instant writ petition as well as the connected W.P No. 510-M/2014, W.P No. 450-M/2015 and W.P No. 551-M/2015 are converted into representations. Office is directed to send the original petitions to the Secretary Health, Government of Khyber Pakhtukhwa for deciding the matters in writing with reasons positively within a period of one month from the date of receipt of this judgment under

28

intimation to the Additional Registrar of this Court.
Office is further directed to retain copies of the writ
petitions for record. The writ petitions are disposed
of accordingly.

Announced.
Dt: 24.01.2017

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JUDGE

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JUDGE

Office
27/11

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Annexure "E"

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT.

No.SOH-(Lit-I) 1-1/2017 (Gen: Misc)
Dated Peshawar the 16th February, 2017

ORDER

1. WHEREAS attention is invited to the minutes of the meeting dated 12.07.2006 held under the Chairmanship of Secretary Health Khyber Pakhtunkhwa circulated vide Govt of Khyber Pakhtunkhwa Health Department letter No. SOH-III/1-179/06 (Class-IV) dated 25.07.2006. Extract of the decision taken in the meeting is reproduced below:-

Decision:-

It was decided that all the Health Institutions should promote the Muslim Sweepers against existing vacancies of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts, on seniority basis and not to appoint Muslim Sweepers against the post of Sweepers in future.

2. AND WHEREAS the above decision was also affirmed by the Hon'ble Peshawar High Court Peshawar vide judgment dated 27.09.2013 in Writ Petition No.293-P/2013 - Titled "Noor ul Qamar S/O Shams ul Qamar Muslim Sweeper THO Hospital Shabqadar, District Charsadda & 9 others versus Govt of Khyber Pakhtunkhwa Health Department & others.

3. NOW THEREFORE in pursuance of the above decision taken/judgment of the Hon'ble Court, it is sufficiently clear that those who were appointed as Muslim Sweepers before 12.07.2006 are entitled for adjustment against the aforementioned posts without disturbing the quotas reserved under the Rules for appointment of Class-IV Govt Servants and children of Retiring/Incapacitated/deceased civil servants etc. However, those who were appointed as Muslim Sweeper after 12.07.2006 in violation of the above decision/judgment are not covered under the policy.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT.

Encl. No. & Date even.

Copy of file above is forwarded to the:-

1. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
2. The Director Health Services, FATA.
3. All District Health Officers in Khyber Pakhtunkhwa.
4. All Medical Superintendent of Hospitals in Khyber Pakhtunkhwa.
5. All Medical Directors/Hospital Directors of MTs in Khyber Pakhtunkhwa.
- PS to Senior Minister Health, Khyber Pakhtunkhwa.
- PS to Secretary Health, Khyber Pakhtunkhwa.
- Provincial President Paramedical Class-IV Employees Association, I.R.H. Peshawar.

430 3/3/17
K.H. Peshawar

ELI
Put off delay
referred

1197
27-2-17

HR
PS-II July
[Signature]

(Bakhtiar Ali)
Section Officer (Lit.I)

MANAGER HR MTI KTH
Diary No. 877
Dated. 3/3/2017

[Signature]

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Annexure 'F'



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 639 /2017

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 674

Dated 16/6/2017

Mr. Lutf-E-Hakim, Muslim Sweeper (BPS-1),
DHQ Hospital, Taimer Garra, District Dir Lower.....**APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director General Health Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Health Officer, District Dir Lower.
- 4- The Medical Superintendent DHQ Hospital Taimergara, District Dir Lower.....**RESPONDENTS**

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNE NOTIFICATION DATED 16.02.2017 WHEREBY THE APPELLANT HAS BEEN IGNORED/EXCLUDED FROM PROMOTION/ADJUSTMENT AGAINST ANY OTHER CLASS-IV POST AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned Notification dated 16.2.2017 may kindly be modify to the extent that the appellant may be considered for promotion/adjustment against any other Class-IV post in light of the policy dated 25-07-2006 from the date when his other colleagues were promoted/adjusted. Any other remedy which this Honorable Tribunal deems appropriate that may also be awarded in favor of the appellant.

Filed to-day
Registrar
16/6/17

R/SHEWETH:
ON FACTS:

APPEALED

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

- 1- That appellant is the employee of the respondent Department and is serving as Sweeper (Muslim) for quite considerable time efficiently and up to the entire satisfaction of his superiors. Copy of the appointment order is attached as annexure **A.**
- 2- That vide Notification dated 25.7.2006 the respondent Department including autonomous institutions have unanimously decided that all the Health Institutions should promote the Muslim Sweepers against the existing vacancies of Ward Orderly, Chowkidar, Mali, Dayi, Aya and other Class-IV posts on seniority basis and not to appoint Muslim

Sweepers against the post of sweeper in future. Copy of the policy is attached as annexure **B.**

3- That appellant in light of the above mentioned Notification dated 25.7.2006 applied for his adjustment/promotion against nay class-IV post other than sweeper but no reply was received from the respondent Department, where after the appellant preferred writ petition No. 510-M/2014 in the Honorable Peshawar High Court Circuit Bench Swat/Dar-UI-Qaza.

4- That the Honorable High Court vide judgment dated 24.01.2017 converted the writ petition of the appellant into representation with the direction to Secretary Health to decide the Departmental appeal/representation of the appellant within a period of one month in light of the above mentioned policy. Copy of the judgment is attached as annexure **C.**


5- That after obtaining the judgment dated 24.01.2017 of the Honorable Peshawar High Court Mingora Bench the appellant approached the respondent Department for implementation. That in response the respondent Department issued the impugned Notification dated 16.2.2017 where in the Secretary Health i.e. respondent No.1 issued direction to the concerned authorities to promote/adjust those Muslim Sweepers who were appointed before the issuance of the policy dated 25.07.2006. That as the appellant was appointed as Muslim Sweeper after 25.7.2006, therefore, the appellant was ignored/excluded from promotion /adjustment. Copy of the Notification dated 16.2.2017 is attached as annexure **D.**

6- That appellant feeling aggrieved from the impugned order dated 16.2.2017 preferred Department appeal on 22.02.2017 but no reply has been received so far. Hence the appellant preferred the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure

GROUND:

- A- That the impugned Notification dated 16.02.2017 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be modified.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic republic of Pakistan 1973.
- C- That appellant has been discriminated by the respondents on the subject noted above and as such the respondents violated the Rules regulations of the Provincial Government.

ATTESTED


 CHAIRMAN
 Cyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

- D- That the Notification dated 16.2.2017 of the respondent Department is based on favoritism and nepotism, therefore not tenable and liable to be modified.
- E- That the impugned Notification is violative of Article 38(e) of the Constitution of Pakistan 1973.
- F- That the respondents acted in arbitrary and malafide manner by ignoring the appellant from promotion /adjustment on any Class-IV post in light of the policy dated 25.7.2006.
- G- That the impugned Notification dated 16.2.2017 has been issued by the respondents in utter disregard of law and Rules.
- H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

Dated: 1.6.2017

APPELLANT

LUTF-E-HAKIM

THROUGH:
 NOOR MOHAMMAD KHATTAK
 ADVOCATE
 (Mobile No.0345-9383141)

Certified to be true copy

[Signature]
 Khair Muhammad
 Scribe Tribunal
 Peshawar

Date of Presentation of Application 03/09/2020
 Number of Words 1800
 Copying Fee 14.00
 Urgent ✓
 Total 14.00
 Name of Applicant [Signature]
 Date of Completion of Copy 08/09/2020
 Date of Delivery of Copy 08/09/2020

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p align="center">BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL Service Appeal No. 639/2017</p>		
<p>Date of Institution 16.06.2017 Date of Decision 13.12.2018</p>		
<p>Mr. Luft-E-Hakeem, Muslim Sweeper (BPS-01) DHQ Hospital timer Garra, District Dir Lower.</p>		
<p align="right">Appellant</p>		
<p align="center">Versus</p>		
<ol style="list-style-type: none"> 1. The Secretary Government of Khyber Pakhtunkhwa through Secretary Health Department Khyber Pakhtunkhwa Peshawar. 2. Director General Health Department Khyber Pakhtunkhwa Peshawar. 3. The District Health Officer, District Dir Lower. 4. The Medical Superintendent DHQ Hospital Timergara, District Dir Lower. 		
<p align="right">Respondents</p>		
13.12.2018	<p>Mr. Muhammad Hamid Mughal-----Member (J) Mr. Ahmad Hassan-----Member (E)</p>	
<p align="center"><u>JUDGMENT</u></p>		
<p align="center"><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Mr. Noor</p>		
<p>Muhammad, learned counsel for appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.</p>		
<p>2. This single judgment in the above captioned appeal, shall also dispose of appeals (1). bearing No.640/2017 filed by Rab Nawaz</p>		

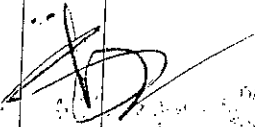


ATTESTED

[Signature]
Secretary
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(2). bearing No.641/2017 filed by Sahib Ullah (3). bearing No. 642/2017 filed by Akhtar Rasool (4). bearing No.643/2017 filed by Dilawar Khan (5). bearing No. 644/2017 filed by Hamid ur Rehman (6). bearing No.645/2017 filed by Khyal Muhammad (7). bearing No.646/2017 filed by Siraj ud Din (8). bearing No.647/2017 filed by Bakht Shah Zeb (9). bearing No. 648/2017 filed by Bakhtiar Khan (10). bearing No.649/2017 filed by Gul Saeed Khan (11). bearing No.650/2017 filed by Kifayat Ullah (12). bearing No.651/2017 filed by Sadiq Muhammad (13). bearing No. 652/2017 filed by Said Rehman (14). bearing No.653/2017 filed by Shams ul Islam (15). bearing No.654/2017 filed by Aftab ud Din (16). bearing No. 655/2017 filed by Muhammad Haq (17). bearing No.656/2017 filed by Abdur Rehman (18). bearing No. 724/2017 filed by Ismail Shah (19). bearing No.725/2017 filed by Rehmat Ali Shah (20). bearing No. 726/2017 filed by Gohar Rehman (21). bearing No.727/2017 filed by Miraj ud Din (22). bearing No. 728/2017 filed by Habib Ullah (23). bearing No.729/2017 filed by Umar Hakim (24). bearing No.730/2017 filed by Shahid Hussain (25). bearing No.731/2017 filed by Shah Khalid being identical in nature, having arisen from the same law, facts and circumstances

3. The appellant, who was appointed as Sweeper (Muslim) at DHQ Hospital Timergra District Dir Lower in the year 2009 has filed the present service appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 16.02.2017 of the respondent No.1 whereby the respondent department accepted the

11/2/2017

 11/2/2017

right of Muslim Sweepers appointed before 12.07.2006 for their adjustment against the post of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts on seniority basis and thereby deprived the Muslim Sweepers appointed after 12.07.2006 to be adjusted as such. Learned counsel for the appellant mainly argued that the impugned order is a sheer example of discriminatory treatment to Muslim Sweepers appointed as such after 12.07.2006.

4. On the other hand learned Additional Advocate General defended the impugned order on the ground that the appellant himself was appointed as Muslim Sweeper in violation of policy decision dated 12.07.2006.

5. Arguments heard. File perused.

6. The respondent department vide its policy decision dated 12.07.2006 decided that all the Health Institutions should promote the Muslim Sweepers against the existing vacancies of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts, on seniority basis and not to appoint Muslim Sweeper against the post of Sweeper in future.


7. It was due to the violation of policy decision dated 12.07.2006 that many Muslim Sweepers had to knock the door of Hon'ble Peshawar High Court. The violation of policy decision led the respondent department to the issuance of fresh order dated 16.02.2017 made partially impugned in the present service appeal.


8. Upon the examination of the impugned order dated 16.02.2017, this Tribunal came to the conclusion that the same is

also in violation of policy decision dated 12.07.2006 in as much as according to the policy decision dated 12.07.2006 gradually all the Muslim Sweepers would have to be adjusted against other Class-IV posts.

9. Impugned order dated 16.02.2017 has the effect of depriving the appellant from his adjustment against other Class-IV post just for the reason that he was appointed as Muslim Sweeper after 12.07.2006. This Tribunal is therefore of the considered opinion that discriminatory treatment was met out to the appellant.

10. Resultantly this Tribunal holds that the cut off date i.e. 12.07.2006 as mentioned in the impugned order dated 16.02.2017 shall be treated as expunged. The present service appeal alongwith connected service appeals as mentioned in para-2 of this judgment are accepted in the above terms. The respondent department is directed to take strict disciplinary action against those responsible for inducting Muslim Sweepers in violation of the policy decision dated 12.07.2006. Parties are left to bear their own costs. File be consigned to the record room.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED 13.12.2018

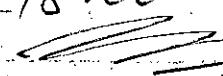
Date of Preparation of Copy 03/09/2020

Number of Words 1600

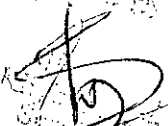
Copying Fee 18.00

Urgent

Total 18.00

Name of Copyist 

Date of Completion of Copy 08/09/2020

Certified to be true copy

Tribunal
Bhopal

37

Annexur "G"



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 902 /2017

Khyber Pakhtunkhwa Service Tribunal

Diary No. 846

Mr. Inayat Ullah, Muslim Sweeper (BPS-1),
DHQ Hospital, Battagram.....

Dated 26/6/2019

APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director General Health Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Health Officer, District Battagram.
- 4- The Medical Superintendent DHQ Hospital Battagram, District Battagram.....

RESPONDENTS

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 16.02.2017 WHEREBY THE APPELLANT HAS BEEN IGNORED/EXCLUDED FROM PROMOTION/ADJUSTMENT AGAINST ANY OTHER CLASS-IV POST AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned Notification dated 16.2.2017 may kindly be modify to the extent that the appellant may be considered for promotion/adjustment against any other Class-IV post in light of the policy dated 25-07-2006 from the date when his other colleagues were promoted/adjusted. Any other remedy which this Honorable Tribunal deems appropriate that may also be awarded in favor of the appellant.

**R/SHEWETH:
ON FACTS:**

ATTESTED

Khyber Pakhtunkhwa Service Tribunal
Peshawar

- 1- That appellant is the employee of the respondent Department and is serving as Sweeper (Muslim) for quite considerable time efficiently and upto the entire satisfaction of his superiors. Copy of the appointment order is attached as annexure **A.**
- 2- That vide Notification dated 25.7.2006 the respondent Department including autonomous institutions have unanimously decided that all the Health Institutions should promote the Muslim Sweepers against the existing vacancies of Ward Orderly, Chowkidar, Mali, Dayi, Aya and other Class-IV posts on seniority basis and not to appoint Muslim Sweepers against the post of sweeper in future. Copy of the policy is attached as annexure **B.**

Re-submitted to-day and filed.

Filed to-day
26/6/19

- 3- That appellant in light of the above mentioned Notification dated 25.7.2006 applied for his adjustment/promotion against the class-IV post other than sweeper but no reply was received from the respondent Department.
- 4- That other colleagues of the appellant were filed writ petition No.181-M/2013 before the Honorable Peshawar High Court Mingora Bench and the Honorable High Court converted the said writ petition into representation with the direction to Secretary Health Department to decide the said Departmental appeal/representation in light of the above mentioned Policy. Copy of the Judgment is attached as annexure.....**C.**
- 5- That in response to the above mentioned Judgment the respondent Department issued the impugned Notification dated 16.2.2017 where in the Secretary Health i.e. respondent No.1 issued direction to the concerned authorities to promote/adjust those Muslim Sweepers who were appointed before the issuance of the policy dated 25.07.2006. That feeling aggrieved from the impugned Notification dated 16.2.2017 the said colleagues of the appellant filed connected Service appeals before this august Tribunal in title " Lutf-e-Hakim & others vs Secretary Health & others" and the same have been allowed this august Tribunal vide judgment dated 13.12.2018. Copies of the Notification dated 16.2.2017 and judgment are attached as annexure **D & E.**
- 6- That appellant filed Departmental appeal before the appellate authority for same relief granted to other colleagues of the appellant but no reply has been received so far. That appellant feeling aggrieved from the inaction of the respondents by not considering the appellant for adjustment against the other class-iv posts preferred the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure.....**F.**

GROUND:

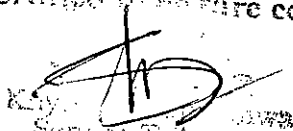
- A- That the impugned Notification dated 16.02.2017 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be modified.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic republic of Pakistan 1973.
- C- That appellant has been discriminated by the respondents on the subject noted above and as such the respondents violated the Rules regulations of the Provincial Government.

39

- D- That the Notification dated 16.2.2017 of the respondent Department is based on favoritism and nepotism, therefore not tenable and liable to be modified.
- E- That the impugned Notification is violative of Article 38(e) of the Constitution of Pakistan 1973.
- F- That the respondents acted in arbitrary and malafide manner by ignoring the appellant from promotion /adjustment on any Class-IV post in light of the policy dated 25.7.2006.
- G- That the appellant is also entitle for the same relief under the principle of consistency which was granted to other colleagues of the appellant.
- H- That the impugned Notification dated 16.2.2017 has been issued by the respondents in utter disregard of law and Rules.
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

Dated: 21.6.2019


Certified to be true copy


Service Tribunal
Faisalabad

APPELLANT


INAYAT ULLAH

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

(Mobile No.0345-9383141)

Date of Presentation of Application 03/09/2020

Name 1200

Cost 14.00

Urgency

Total 14.00

Name of Copy [Signature]

Date of Completion of Copy 08/09/2020

Date of Delivery of Copy 08/09/2020

40

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 902/2019

Date of Institution ... 05.07.2019

Date of Decision ... 26.06.2019



Mr. Inayat Ullah, Muslim Sweeper (BPS-01) DHQ Hospital, Battagram.
... (Appellant)

VERSUS

The Director General Health Services, Khyber Pakhtunkhwa Peshawar and
others.
... (Respondents)

Mr. Mir Zaman Safi,
Advocate.

For appellant


MR. HAMID FAROOQ DURRANI,

CHAIRMAN

ATTESTED

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-


CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

1. The prayer of instant appeal is essentially to the effect that the respondents shall consider the appellant for promotion/adjustment against any other Class-IV post while at present the appellant is serving as Sweeper (Muslim) in BPS-01. The appellant has relied on the minutes of meeting dated 12.07.2006 regarding problems of Class-IV Paramedic employees. Inter-alia, the decision was taken in the meeting to promote the Muslim Sweepers against the existing vacancies of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts on seniority basis and not to appoint the Muslim Sweepers against the posts of Sweeper in future. Reliance is also placed on order issued by the Secretary to Government of Khyber Pakhtunkhwa Health Department on 16.02.2017. In the order it is noted that those who were



41

appointed as Muslim Sweepers before 12.07.2006 were entitled for adjustment against the aforementioned posts without disturbing the quota reserved under the rules for appointment of Class-IV Government Servants etc. It was, however, provided in the order that those who were appointed as Muslim Sweepers after 12.07.2006 were not covered under the policy.

2. This Tribunal decided a number of appeals through judgment dated 13.12.2018 handed down in Appeal No. 639/2017 (Lutf-E- Hakeem Vs: the Secretary Government of Khyber Pakhtunkhwa Health Department and others) in terms that the cut-off date mentioned in the order dated 16.02.2017 and 12.07.2006 shall be treated as expunged. In the said manner the benefit of decision made on 12.07.2006 as well as order dated 16.02.2017 was to be extended to the Muslim Sweepers appointed after 12.07.2006. The issue having been settled once by this Tribunal entails the extension of benefits to employees placed similar to those whose appeals were decided, in affirmative, on 13.12.2018.

3. Learned counsel after arguing the case at some length stated that the appellant would be satisfied at present in case he is considered for promotion to a Class-IV post other than that of Sweeper by the respondents in accordance with law.

4. As the issue of promotion of Muslim Sweeper having been appointed before and after 12.07.2006 has been repeatedly settled by this Tribunal as well as the Honourable Peshawar High Court, the respondents shall consider the appellant for requisite promotion in the order of seniority and his otherwise eligibility under the rules.

ATTESTED


Khyber Pakhtunkhwa

Marked to
Personnel
Branch
1-2-2008

(13)

G/C

"Annexure H"

THE WORTHY DIRECTOR GENERAL HEALTH SERVICES
GOVT OF KHYBER PAKHTUNKHWA

APPEAL REPRESENTATION BEING AGRIEVED FROM
THE IMPUGNED ACT & VIOLATION OF
FUNDAMENTALLY PROTECTED RIGHT BY D.H.O
CHITRAL TO REVIEW MY APPLICATION AND
CONSIDER ME FOR THE POST OF LAB ATTENDANT
OR ANY OTHER SUITABLE POST OR RECENTLY
ADVERTISED VACANCIES BY D.H.O CHITRAL
INCLUDING JUNIOR CLERK (BPS-11) AND OTHERS
WERE CALLED TO FILL AND THE RECRUITMENTS
STILL UNDER PROCESS.

Subject:-

Respectfully Sir

1. That the applicant namely Said Ullah was appointed as Muslim Sweeper BPS-1 in T.H.O Hospital Garamchasma Chitral, by D.H.O Chitral on 05-12-2008 and since the date of appointment performing his duties with full efficient and honesty.

Copy of Appointment Letter & Service Card Annexed "A"

2. That lastly the D.H.O chitral vide a consolidated advertisement published a huge number of vacancies e.g. Class-IVs, Ministerial Staff and Auxiliary staff etc. I being 12 years of standing service, Higher Education, Diploma in Computer Science as well as Honorable Peshawar High Court Peshawar Judgment in Writ Petition No 293-F/2013 Noor Ul Qamar Vs The State for Promotion And Adjustment of Muslim Sweepers and other Relevant settled Rule for promotion of ministerial staff eligible, in every manner I applied for the vacant post of Lab Attendant through proper channel e.g. Director General Health Services Peshawar and which was marked to the D.H.O Chitral.

Copy of Application/Recommndation Annexure "B"

3. That the interview committee without any reason and justification turn down my application and appointed other persons on the basis of favoritism political approach which I witnessed. On the complaint and protest of the peoples of chitral your kind office tacked serious action and suspended all the recruitments till the completion of inquiry which is still pending.

Copy Letter of Suspension of Recruitments Dated 27-12-2019 "C"

It is therefore, being aggrieved from the impugned act & violation of my fundamentally protected right by D.H.O Chitral, I appeal to this office to review my application and consider me for the post of Lab Attendant or any other suitable post or recently advertised by D.H.O Chitral including Junior Clerk (BPS-11) and others were called to fill and the recruitments is still under process, I may very kindly be promoted.

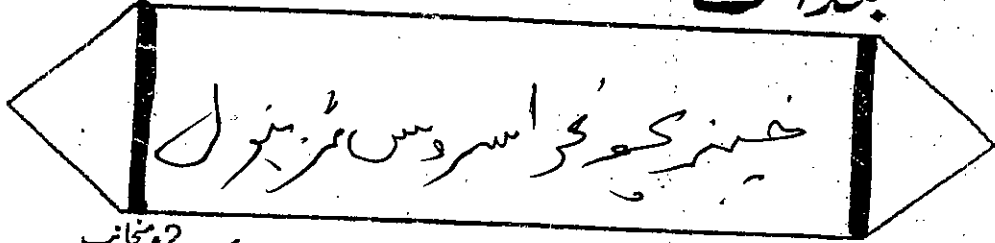
Thanking and Regards


Appellant

Dated: 21-06-2020

Said Ullah
Tehsil Headquarter Hospital
Garamchashma Chitral

بعدالت



2 جناب

سیدالت بنام حکومت خیز کوٹ

موزنہ 20-21-31

مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کارروائی متعلقہ
آن مقام کیلئے سیدالت بنام حکومت خیز کوٹ کیلئے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
دکن صاحب کو راضی نامہ کرنے و تقریر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک اور وپیہار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کیٹرنہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو ترقی و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا اذکالت نامہ لکھ دیا کہ سند ہے۔

Accepted

الموزنہ 31

2020

کے لئے منظور ہے۔

بمقام نامہ

سیدالت ولد مولانا

محمد اللہ

Sher Ayder Khan

LL.B (Hon's), LL.M
ADVOCATE HIGH COURT

**BEFORE THE KHYBER PAKHTUNKHUWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No: 608 /2020

Saeed Ullah

V E R S U S

**The Government of Khyber Pakhtunkhwa through
Secretary Health Department & others**

**APPLICATION FOR CONDONATION OF 03 MONTHS & 08
DAYS DELAY IN FILING SERVICE APPEAL BEFORE
THIS HONBLE SERVICE TRIBUNAL.**

Respectfully sheweth;

1. That the instant service appeal is pending before this Hon'ble Court and fixed for _____.
2. That the appellant filed departmental appeal/representation before the respondent No. 2 on 22-06-2020 and which is still pending before the concerned department.
3. That on 22-09-2020 the statutory period for filing service appeal is completed and during the pendency of departmental appeal /representation the respondent No. 2 through an inquiry/recommendation withdrawn all the appointments made by D.H.O Chitral due to the irregularity in recruitment process, where the appointees challenged the impugned recommendation before the Hon'ble Peshawar High Court Mingora Bench, which is still pending/adjudication.
4. That the appellant was also aggrieved from appointment of fresh candidate in the above recruitment process. Thereby the appellant waited for the department reply and his consideration for the Class-IV post other than sweeper. Hence; this 03 months and 08 days delay.
That it is pertinent to mentioned here if the final decision of the court comes in favour or against

the appointees the appellant is not beneficial in any manner.

Therefore it is humbly prayed for condonation of 03 months and 08 days of period which has been laps during above mentioned process may kindly be condoned and the appellant may give full opportunity to defend his case by fair and substantial justice.

31-12-2020

شیر ایڈوکیٹ
Appellant

Through

SHER HYDER KHAN
Advocate High Court
Mobile: 0336-9377022

16

Annexure "C"

OFFICE OF THE EXECUTIVE DISTRICT OFFICER HEALTH CHITRAL.

OFFICE ORDER

As recommended by the Departmental Selection Committee, Mr. Ayaz Ahmad S/O Amanullah Khan R/O Garamchashma District Chitral (L) is hereby appointed as Lab: Attendant in (BPS-04) Rs. (9900-440-23100) plus usual allowances as admissible under the rules against the vacant post at THQ Hospital Garamchashma Chitral Lower. His appointment in the Health Department Chitral will be subject to the following terms and conditions:-

CONDITIONS:-

1. He will be on probation period initially for a period of one year extendable for a further period not exceeding one year.
2. His service can be terminated at any time in case the performance is found unsatisfactory during probation period.
3. His services can be dispensed with during the probation period, if his work and conduct found unsatisfactory.
4. His appointment will be subject to medical fitness and verification of character and antecedents etc.
5. He should join his post within 14 days of the issuance of this order positively otherwise the appointment cancels automatically.
6. The DHO concerned should personally check his original documents before handing over charge.
7. He will not be entitled to any TA/DA for medical examination and joining the first appointment.
8. He will be governed by such rules and the government may issue orders as for the category of Govt: servant to which he belongs.
9. He is liable to serve anywhere in the KPK/FATA.
10. He will submit an under taking on judicial stamp paper to the DHO Chitral that he has not been dismissed from service by any Govt: or semi Govt: organization.
11. If he wish to resign from service he will resign in writing by giving prior notice of one month OR deposit one month pay in lieu of one month advance notice, in the Government treasury. However he will continue to serve the Govt: till his resignation is accepted by the competent authority.

If the above terms and conditions are acceptable to him, he should report to the In charges of their Institutions, for duty within (14) days of the receipt of this order, otherwise this offer will be cancelled.

Arrival reports should be submitted to this office.

Sd/-

DISTRICT HEALTH OFFICER
CHITRAL.

No 8394-98 IC-11,

dated Chitral the 12 /12/2019

Copy forwarded to the: -

1. Director General Health Services KPK, Peshawar.
2. PS to Secretary Health Department KP, Peshawar.
3. District Accounts Officer Chitral.
4. I/C THQ Hospital Garamchashma.
5. Official Concerned.
6. I/C Account Section.

For information and necessary action.

DISTRICT HEALTH OFFICER
CHITRAL

17

DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

E-Mail Address: dg@kphs.gov.pk Office Ph# 091-9210769 Exchange# 091-9210167, 9210196 Fax # 091-9210230
No. 3722-24 /Personnel/DHO Chitral Dated: 08 /07/2020

To,

1. The District Health Officer
Chitral Lower.
2. The District Health Officer
Chitral Upper.

Subject: APPLICATION FOR RELEASE OF PAY/ ENQUIRY REPORT
Memo:

Reference to your letter No. 3581/C-5 dated 21.5.2020 on the subject noted above.

In this context it is stated that the newly recruited Class-IV under your control was enquired through Enquiry Committee about its transparency. The Enquiry Committee submitted their report with certain recommendations (copy attached) with the direction to implement the recommendation of the Enquiry Committee in letter and spirit under intimation to this Directorate.

[Signature]
DIRECTOR GENERAL HEALTH SERVICES, K.P PESHAWAR. *[Initials]*

No. 3724 /Personnel

Copy forwarded to the Secretary to Government of Khyber Pakhtunkhwa Health Department Peshawar alongwith enquiry report, with the request to take action on recommendation No. 2 & 3 of the enquiry report.

[Signature]
DIRECTOR GENERAL HEALTH SERVICES, K.P PESHAWAR. *[Initials]*

[Handwritten mark]

The Director General Health Services
Khyber Pakhtunkhwa Peshawar

Subject: - **INQUIRY REPORT**

With reference to your office letter NO. 1435-40/Personnel, Dated: 27/12/2019.

We the Inquiry Officers, Dr. Shaukat Ali & Dr. Ikram Ullah Khan, conducted the inquiry into the matter and the following findings/recommendations are hereby submitted.

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1. 14 No. of Civil Dispensaries were constructed in district Chitral during the year 1992-93 under the People's Works Program Khyber Pakhtunkhwa and SNEs were approved by the department on 16/05/2016 for these Health Facilities vide the Finance Department Notification No. BOVI/4-40/2003-04/VOL-1 Dated Peshawar the 16-05-2016.
2. The interview for appointment of 80 Class IV vacancies was conducted on 12/12/2019. The DHO presented a letter where-in He has requested the Secretary Health, Deputy Commissioner and Medical Superintendent DHQ Hospital Chitral to nominate their representatives for Interview process. The DHO Chitral vide his Office letter No. 83-84 CG Dated 03-01-2020 has communicated that the interview was conducted by the active participation of all the Selection Committee Members whereas the Merit List is signed only by 02 Members.
3. While inquiring the matter, the officer under inquiry, was asked to present the documentary proofs depicting transparency regarding recruitment process, as claimed by him in point No. 11 of his inquiry statement vide office letter No. 83-84/CG dated 03-01-2020. Unfortunately, the Officer concerned could not produce any such documentary proofs in his defense.
4. The selection process has been kept very vague with concealment of many important information.
5. Copies of the rules were presented to the Inquiry Committee but no evidence of adherence to the same was noted.

Recommendation:

- ✓ 1. The recruitment process seems to be lacking of any merit and transparency as claimed by the officer under inquiry, therefore, the recruitment orders of the selected candidates may be cancelled and void ab-initio.
2. The officer concerned may not be considered for any managerial position in future and he may be close back to his previous position.
3. A proper legislation for the recruitment of Class-IV may be carried out.

MAA
MAA
Dr. Shaukat Ali
Management Cadre BS-19

[Handwritten mark]

[Signature]
Dr. Ikram Ullah
Management Cadre BS-20

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

SERVICE APPEAL NO. 608/2021

Saeed Ullah.....Appellant

Versus

Government of Khyber Pakhtunkhwa & othersRespondents

Index

S. No.	Description	Annexure	Pages No.
1	Comments		1-2
2	Order dated 02/12/2008	A	3
3	Letter dated 16/02/2017 & 08/12/2017	B	4-5

BEFORE THE SERVICES TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR

APPEAL NO. 608 / 2021

Saeed UllahAppellant

Versus

Govt. of Khyber Pakhtunkhwa and othersRespondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth;

Preliminary objections

1. That the appellant has got no locus standi to file the instant appeal.
2. That the appellant has not come to this Honorable Court with clean hands that the instant appeal has been filed with name Saeedullah while the appointment order has been attached with name Saidullah.
3. That the appeal is not maintainable in its present form.
4. That the appellant has got no cause of action to file the instant appeal.
5. That, the appellant is not an "AGGRIEVED" person within the meaning of Article 199 of the Constitution of Pakistan.

ON FACTS:

1. Correct to the extent that the appellant was appointed as 'Sweeper in the Health Department on regular basis under deceased son's quota vide order dated 02.12.2008 at **Annex-A**.
2. Correct to the extent that the Health Department has circulated the minutes of the meeting held on 12.07.2006 regarding problems of Class-IV Paramedics Employees vide letter dated 25.07.2006.
3. Pertains to record. However, as far as the promotion of the appellant is concerned, it is stated that the appellant is not coming under the ambit of policy notified on 16.02.2017 being appointed after 12.07.2006.
4. Pertains to record.
5. Correct to the extent that the Health Department notified the policy regarding Class-IV Paramedics Employees vide order No. SOH(Lit-I)1-1/2017(Gen: Misc) dated 16.02.2017 (**at Annex-B**) wherein it was clearly mentioned in Para-3 that

"NOW THEREFORE in pursuance of the above decision taken / judgment of the Hon'ble Court, it is sufficiently clear that those who were appointed as Muslim Sweepers before 12.07.2006 are entitled for adjustment against the aforementioned posts without disturbing the quotas reserved under the rules for appointment of Class-IV Govt Servants and children of Retiring / Incapacitated / deceased civil servants etc. However, those who were appointed as Muslim Sweeper after 12.07.2006 in violation of the above decision / judgment are not covered under the policy."

6. Pertains to record.

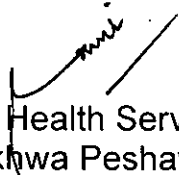
7. Pertains to record.

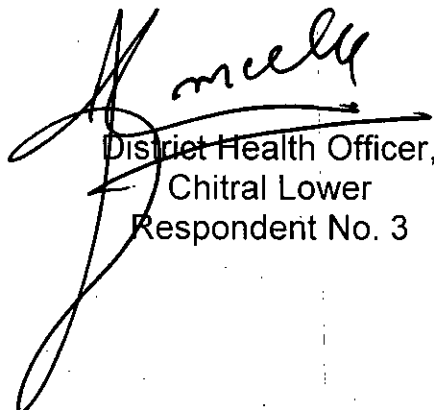
ON GROUNDS:

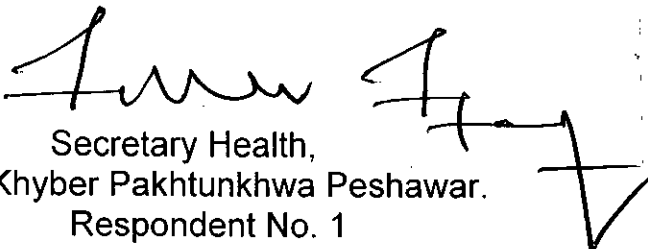
- A. Incorrect, the Notification dated 16.02.2017 is not against the law, facts, norms of natural justice and liable to be implemented.
- B. Incorrect, in light of the Notification dated 16.02.2017, the appellant has been treated in law and rules and there is no violation of Article 4 and 25 of the constitution of Pakistan 1973.
- C. Incorrect, as per Notification dated 16.02.2017, the appellant has not been discriminated.
- D. Incorrect, the Notification dated 16.02.2017 is according to law and rules.
- E. Incorrect, as stated above.
- F. Incorrect, as stated above.
- G. Incorrect, the appellant is not coming under the ambit of policy notified on 16.02.2017 being appointed after 12.07.2006.
- H. Incorrect as explained in the above paras.
- I. No comments being formal.

PRAY

As the appeal is devoid of merits and has no legal footings, therefore, it is most humbly prayed that the instant appeal may please be dismissed with cost.


Director General Health Services,
Khyber Pakhtunkhwa Peshawar.
Respondent No. 2


District Health Officer,
Chitral Lower
Respondent No. 3


Secretary Health,
Govt. of Khyber Pakhtunkhwa Peshawar.
Respondent No. 1

7

Annexure "A"

OFFICE OF THE EXECUTIVE DISTRICT OFFICER HEALTH CHITRAL.
OFFICE ORDER

Due to death of Baitoli Khan Sweeper THQ Hospital Garamchashma on 30.11.2008 during service, his son Mr. Saidullah Khan is hereby appointed as Sweeper in BPS-01 (Rs. 2970-90-5670) plus usual allowance as admissible under rules, at THQ Hospital Garamchashma. His appointment in the Health Department, Chitral will be subject to following terms and conditions: -

CONDITIONS:-

1. He will be on probation period initially for a period of two years extendable for a further period not exceeding one year.
2. His services can be dispensed with during the probation period, if his work and conduct found unsatisfactory.
3. His appointment will be subject to medical fitness and verification of character and antecedents etc.
4. He will not be entitled to any TADA for medical examination and joining the first appointment.
5. He will be governed by such rules and the government may issue orders as for the category servant to which he belong.
6. He shall for all intents and purpose is civil servant, except for the purpose of pension, in lieu of the same he will be entitle to receive contributory provided Fund. For the said Fund 10% contribution will be made by the provincial Govt. and 10% by the civil servant concerned in the prescribed manner. Provided further that in the event of death of the civil servant whether before or after retirement, their family shall be entitled to receive the said amount if it has already not been received by concerned deceased Civil Servant:
7. He is liable to serve any where in the NWFP/FATA.
8. He will submit an under taking on judicial stamp paper to the EDO Health Chitral that he has not been dismissed from service by any Govt. or semi Govt. organization.
9. If he wish to resign from service after completion of bond period they shall resign in writing by giving prior notice of one month OR deposit one month pay in lieu of one month advance notice, in the Government treasury. However he will continue to serve the Govt. till their resignation is accepted by the competent authority.

If the above terms and conditions are acceptable to him. He should report to the Medical Officer THQ Hospital Garamchashma District Chitral for duty within (14) days of the receipt of this order.

Arrival reports should be submitted to this office.

Sd/- xx XX xx
(DR; SHER QAYUM KHAN)
EXECUTIVE DISTRICT OFFICER
HEALTH CHITRAL.

No. 4892-95/IC-11.

dated Chitral the 02/12/2008

Copy forwarded to the: -

1. Medical Officer In charge THQ Hospital Garamchashma.
2. District Accounts Officer Chitral.
3. Accounts Section of local office.
4. Saidullah Khan S/O Late Baitoli Khan village Bashqar Bala Garamchashma.

For information and necessary action.

At Secy & Netral Khan file it

[Signature]
EXECUTIVE DISTRICT OFFICER
HEALTH CHITRAL.

B

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT.

No.SOH-(Lit-I) 1-1/2017 (Gen: Misc)
Dated Peshawar the 16th February, 2017

ORDER

1. WHEREAS attention is invited to the minutes of the meeting dated 12.07.2006 held under the Chairmanship of Secretary Health Khyber Pakhtunkhwa circulated vide Govt of Khyber Pakhtunkhwa Health Department letter No. SOH-III/1-179/06 (Class-IV) dated 25.07.2006. Extract of the decision taken in the meeting is reproduced below:-

Decision:-

"It was decided that all the Health Institutions should promote the Muslim Sweepers against existing vacancies of Ward Orderly, Chowkidar, Mali, Dai, Aya and other Class-IV posts, on seniority basis and not to appoint Muslim Sweepers against the post of Sweepers in future.

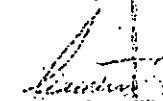
2. AND WHEREAS the above decision was also affirmed by the Hon'ble Peshawar High Court Peshawar vide judgment dated 27.09.2013 in Writ Petition No.293-P/2013 - Titled "Noor ul Qamar S/O Shams ul Qamar Muslim Sweeper THQ Hospital Shabqadar, District Charsadda & 9 others versus Govt of Khyber Pakhtunkhwa Health Department & others.
3. NOW THEREFORE in pursuance of the above decision taken/judgment of the Hon'ble Court, it is sufficiently clear that those who were appointed as Muslim Sweepers before 12.07.2006 are entitled for adjustment against the aforementioned posts without disturbing the quotas reserved under the Rules for appointment of Class-IV Govt. Servants and children of Retiring/Incapacitated/deceased civil servants etc. However, those who were appointed as Muslim Sweeper after 12.07.2006 in violation of the above decision/judgment are not covered under the policy.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT.

Endst No. & Date even

Copy of the above is forwarded to the:-

1. The Director General Health Services Khyber Pakhtunkhwa, Peshawar.
2. The Director Health Services, FATA.
3. All District Health Officers in Khyber Pakhtunkhwa.
4. All Medical Superintendent of Hospitals in Khyber Pakhtunkhwa.
5. All Medical Directors/Hospital Directors of MTIs in Khyber Pakhtunkhwa.
6. PS to Senior Minister Health, Khyber Pakhtunkhwa.
7. PS to Secretary Health, Khyber Pakhtunkhwa.
8. Provincial President Paramedical Class-IV Employees Association, LRH Peshawar.


(Bakhtiar Ali)
Section Officer (Lit.I)



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar the 08th December, 2017

NOTIFICATION.

No. SOH-(Lit-I) 1-1/2017 (Gen. Misc): In pursuance of this Department order of even No. dated 16-02-2017, it is clarified that every citizen shall have the right to enter upon any lawful profession or occupation as envisaged under Article-18 of the constitution of Islamic Republic of Pakistan. Therefore, the decision taken in the meeting on 12-07-2006 reflected below sub-para-ix and above sub-para-x of para-5 is hereby repealed. The reasons behind are that the decision ibid affected the hygienic condition of the Health facilities in the Province. In some areas of the Province non-Muslim Sweepers are not available. Furthermore, the posts sanctioned in the budget book are "Sweepers". There is no separate category of Muslim Sweepers and non-Muslim Sweepers.

2. Any vested right accrued in favour of any person in pursuance of decisions already announced by the Hon'ble court and attained finality and this Department order dated 16-02-2017 shall be implemented.

3. Now therefore, it has been decided that whenever the appointment of sweepers are made, preference shall be given to non-Muslims. Wherever, applications/requests are not received as such, the persons belonging to Muslim community shall be appointed as sweepers provided that a certificate of non-availability of non-Muslims candidates will be issued by the concerned Appointing Authority / Selection Committee or as the case may be. In this regard the person seeking appointment as such, shall submit an affidavit/undertaking on judicial stamp paper duly attested by Oath Commissioner, with no claim of change of cadre.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Endst No. & Date even

Copy of the above is forwarded to the-

1. Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
2. Director Health Services, FATA.
3. Director General Provincial Health Services Academy, Peshawar.
4. All Section Officer in Health Department.
5. All Medical Directors/Hospital Directors of MTIs in Khyber Pakhtunkhwa.
6. All District Health Officers in Khyber Pakhtunkhwa.
7. All Medical Superintendent of Hospitals in Khyber Pakhtunkhwa.
8. PS to Senior Minister Health, Khyber Pakhtunkhwa.
9. PS to Secretary Health, Khyber Pakhtunkhwa.
10. Provincial President Paramedical Class-IV Employees Association, LRF, Peshawar.
11. Section Officer (E-IV) Health Department for maintaining the record.


(BAKHTIAR ALI)
SECTION OFFICER (LIT. I)